

INJUNCTION IS REFUSED

OPINION IN THE GUERNSEY EQUITY CASE. Judge Wheaton, Before Whom the Case Was Tried, Decides that the Evidence in the Case Is Not Sufficient to Warrant Him in Continuing Preliminary Injunction—Woman Asks for a Divorce from a Man to Whom She Says She is Wife No. 2—An Ejectment Suit.

An opinion was filed yesterday by Judge F. W. Wheaton, of Wilkes-Barre, with Provisionary John Copeland, in the equity case of J. W. Guernsey, in which he refuses to continue the preliminary injunction restraining M. W. Guernsey from using the word "Guernsey" on pianos. The opinion follows:

The preliminary injunction enjoins the defendant from selling, leasing or handling in any manner pianos with the name Guernsey stenciled on them. Both plaintiff and defendant have for many years been dealers in pianos, organs and musical supplies in the city of Scranton. They are not related to each other. The plaintiff has never traded under the single name of Guernsey, but at different times as J. W. Guernsey, as the Columbus Music Store, J. W. Guernsey, proprietor, Guernsey Hall, J. W. Guernsey, proprietor. The defendant has traded under the name of M. W. Guernsey and Guernsey Brothers.

The plaintiff has never been a manufacturer of pianos; as Guernsey Brothers, was from 1889 to 1891, engaged in the manufacture of pianos. About one year ago the defendant began selling, leasing and handling an upright piano stenciled "Guernsey." This piano was a modification, and it is claimed, an improvement on the piano formerly manufactured by the defendant. It is manufactured in New York by a sign, claimed to be some extent original, devised by William Guernsey, a brother of the defendant, who testified that the name "Guernsey" is his (William's) own name and trade-mark, put there by his authority to indicate the designer and inventor of this particular kind of piano.

On the inside of this piano, in raised letters, are the words "Guernsey Brothers," or "Guernsey Bros."

The plaintiff never sold, leased or handled a piano, or other musical instrument upon which the name Guernsey alone was placed either by stencil or otherwise.

Even if I were to reject the testimony of William Guernsey, and it is not contradictory, and even if the plaintiff had used the name Guernsey, either by stencil or otherwise, as a distinctive mark for a piano sold, etc., by him, the use of the word Guernsey by the defendant without more would not warrant the continuance of the preliminary injunction.

The mere name of a person or of a place cannot, as a general rule, be appropriated as a trade-mark; at least not in the sense of preventing another person from having the same name or residing in the same place, from using it. So in a contest between persons of the same name, "Darlinton" is a name, but "Darlinton" is not a name which could have stamped his name upon the piano, and which would entitle him to prevent another person from using it.

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and by additional prayer asks court to enjoin the defendant from impersonating the plaintiff, and from representing and holding himself out as J. W. Guernsey, or Guernsey, and from making further sales of pianos, organs and musical instruments under the name, style and title of Guernsey. Evidence of impersonation is confined to a single instance, which happened more than three years ago, in connection with the leasing of an organ. If there had been sufficient evidence of habitual and continuous fraud upon the plaintiff by way of impersonation, or if had been shown that defendant frequently represented himself as J. W. Guernsey in the sale of pianos, organs and musical instruments, and threatened to continue such fraudulent practices, I should feel disposed to enjoin him from so doing, if upon investigation I should find that equity had jurisdiction of the case. Under the evidence, however, I do not find enough to warrant me in enlarging the injunction applied for, or in continuing the injunction heretofore granted, even in modified form.

The motion to continue the preliminary injunction in this case is refused, and the injunction heretofore granted is dissolved.

Applications for Divorces. Emory P. Andrews, a fugitive from justice, was yesterday made the respondent in a divorce proceeding begun against him by Mrs. Myrtella Andrews, formerly Miss Kromer, who claims to be wife No. 2. They were married in this city Jan. 15, 1899, by Rev. J. B. Sweet, and some time later Mrs. Andrews learned that March 15, 1899, her husband had married a Miss Mary Welch of Williamsport, at Horseheads, N. Y., who is still alive and from whom her husband has not been divorced.

After discovering the perjury of her husband, Mrs. Andrews had him arrested on charges of bigamy, adultery and perjury, and after a hearing before Alderman Kasson he was committed to jail in default of bail. He escaped from the constable, who was intrusted with him and has not since been seen.

Allen Smith alleges that his wife, Sarah Smith, deserted him and he filed an application yesterday for a divorce from her. They were married Oct. 22, 1887, and on Sept. 1, 1898, Smith alleges that his wife left him to return no more.

Dispute Over Ownership of Land. The Delaware, Lackawanna and Western company claims it is the owner of the ground on West Lackawanna avenue, which is occupied by part of the meat house of Ira Bennett & Co., and yesterday began an action against Ira Bennett and George Hotchkiss to recover possession of the land.

The company alleges that in 1795 a large amount of land, of which the piece in dispute was a part, was conveyed to Providence township for school purposes. This land was subsequently leased to Joseph Fellows for 999 years, and the plaintiff subsequently leased from Fellows the land in question. Willard, Warren & Knapp represent the company.

Yesterday's Marriage Licenses. Anthony Bordegas, Scranton; Giuseppe Tedesco, Forest City; John Zigan, Scranton; Taylor Charles Cwilt, Scranton; Josephine S. Florio, Scranton.

INDUSTRIAL JOTTINGS. D. L. & W. BOARD FOR TODAY. The following is the make-up of the Delaware, Lackawanna and Western board for today:

FRIDAY, AUGUST 22. Summits West—8 a. m., Carrigg; Pushers—7 a. m., C. Bartolomeo; 8 a. m., Houser; 11:45 a. m., Coslar; 7:30 p. m., Murphy; 9 p. m., W. H. Bartholomew. Helms—1:30 a. m., Case; 7 a. m., Lamping; 10 a. m., Lattimer; 3:15 p. m., Stanton.

NOTICE. Golden and Crew will run 11:30 p. m. extra car, Thursday, Aug. 21. Baxter and crew will run No. 56, Friday, Aug. 22. Leonard and crew will run No. 52, Friday, Aug. 22. Staples and crew will run No. 54, Friday, Aug. 22. McLean and crew will run No. 51, Friday, Aug. 22. Allen and crew will run No. 57, Friday, Aug. 22.

This and That. Fred F. Scott has been appointed freight and ticket agent for the Lackawanna railroad at Northumberland, vice R. S. Scott, retired. F. H. Samson has been appointed agent for the Lackawanna Railroad company at Duryea, vice M. J. Kelly, resigned.

SALEM CAMP MEETING. Those Who Are Participating in the Exercises. The meeting Wednesday opened favorably with a missionary meeting, in charge of the Women's Foreign Mis-

Third Week of the August Trade Sale. FOR FRIDAY ONLY. But One to Each Customer. Antique Oak Rockers. A special purchase of 100 of these cane seated sewing chairs at a ridiculously low figure permits us to make this remarkable offer on Friday. Choice of oak or mahogany finish. 97c. THE ECONOMY Credit you? Certainly! 221-223-225-227 Wyoming Avenue. Store Closes at 5 O'Clock Today.

FINANCIAL. THIRD NATIONAL BANK OF SCRANTON. Capital, \$200,000. Surplus (Earned) \$600,000. Pays 3% interest on savings accounts whether large or small. Open Saturday evenings from 7:30 to 8:30.

THE MARKETS. Wall Street Review. New York, Aug. 21.—Active speculative liquidation became manifest in today's market and at the close the selling movement was urgent and somewhat precipitated. During the earlier part of the day some stands were made against the tendency to depression, and a few stocks were pushed up at different times.

New York Grain and Produce Market. New York, Aug. 21.—Flour—Firmly held again and more active. Wheat—Spot firm, 75c; elevator, 76c; No. 2 red, 77c; No. 2 white, 78c; No. 1 northern, 79c; No. 1 southern, 80c; No. 1 western, 81c; No. 1 eastern, 82c; No. 1 southern, 83c; No. 1 western, 84c; No. 1 eastern, 85c; No. 1 southern, 86c; No. 1 western, 87c; No. 1 eastern, 88c; No. 1 southern, 89c; No. 1 western, 90c; No. 1 eastern, 91c; No. 1 southern, 92c; No. 1 western, 93c; No. 1 eastern, 94c; No. 1 southern, 95c; No. 1 western, 96c; No. 1 eastern, 97c; No. 1 southern, 98c; No. 1 western, 99c; No. 1 eastern, 100c.

Philadelphia Grain and Produce. Philadelphia, Aug. 21.—Wheat—Firm; contract grade, August, 73c; No. 1, 74c; No. 2, 75c; No. 3, 76c; No. 4, 77c; No. 5, 78c; No. 6, 79c; No. 7, 80c; No. 8, 81c; No. 9, 82c; No. 10, 83c; No. 11, 84c; No. 12, 85c; No. 13, 86c; No. 14, 87c; No. 15, 88c; No. 16, 89c; No. 17, 90c; No. 18, 91c; No. 19, 92c; No. 20, 93c; No. 21, 94c; No. 22, 95c; No. 23, 96c; No. 24, 97c; No. 25, 98c; No. 26, 99c; No. 27, 100c.

Chicago Grain Market. Chicago, Aug. 21.—Today was a wild one in grains. The return of manipulation, which began to make itself felt a week ago, made the pit a storm center. Corn shorts suffered worst. September option in every pit felt the effect of scarcity of contract grades. Wheat, on the other hand, shorts in oats saw no hope of scarcity. Stocks and the big packers put their shoulders under the market. The fortunate longs unloaded some of their holdings. In the afternoon, the slight respite from the price level in the day. At the close, however, every-thing was again in a state of confusion. Quotations were as follows: Flour—Quiet and steady; No. 2 spring wheat, 72c; No. 2 winter wheat, 73c; No. 2 corn, 30c; No. 2 yellow, 31c; No. 2 white, 32c; No. 2 red, 33c; No. 2 blue, 34c; No. 2 green, 35c; No. 2 purple, 36c; No. 2 black, 37c; No. 2 brown, 38c; No. 2 gray, 39c; No. 2 white, 40c; No. 2 yellow, 41c; No. 2 white, 42c; No. 2 red, 43c; No. 2 blue, 44c; No. 2 green, 45c; No. 2 purple, 46c; No. 2 black, 47c; No. 2 brown, 48c; No. 2 gray, 49c; No. 2 white, 50c; No. 2 yellow, 51c; No. 2 white, 52c; No. 2 red, 53c; No. 2 blue, 54c; No. 2 green, 55c; No. 2 purple, 56c; No. 2 black, 57c; No. 2 brown, 58c; No. 2 gray, 59c; No. 2 white, 60c; No. 2 yellow, 61c; No. 2 white, 62c; No. 2 red, 63c; No. 2 blue, 64c; No. 2 green, 65c; No. 2 purple, 66c; No. 2 black, 67c; No. 2 brown, 68c; No. 2 gray, 69c; No. 2 white, 70c; No. 2 yellow, 71c; No. 2 white, 72c; No. 2 red, 73c; No. 2 blue, 74c; No. 2 green, 75c; No. 2 purple, 76c; No. 2 black, 77c; No. 2 brown, 78c; No. 2 gray, 79c; No. 2 white, 80c; No. 2 yellow, 81c; No. 2 white, 82c; No. 2 red, 83c; No. 2 blue, 84c; No. 2 green, 85c; No. 2 purple, 86c; No. 2 black, 87c; No. 2 brown, 88c; No. 2 gray, 89c; No. 2 white, 90c; No. 2 yellow, 91c; No. 2 white, 92c; No. 2 red, 93c; No. 2 blue, 94c; No. 2 green, 95c; No. 2 purple, 96c; No. 2 black, 97c; No. 2 brown, 98c; No. 2 gray, 99c; No. 2 white, 100c.

Chicago Live Stock Market. Chicago, Aug. 21.—Cattle Receipts, 16,000 including 4,000 calves, 5,000 weaners; and lower; good to prime steers, \$8.50; fair to medium, \$7.50; Texas red steers, \$7.50; western steers, \$7.50; mess pork, \$12.50; hogs, \$12.50; corn, \$1.50; wheat, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; 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rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50; middlings, \$1.50; meal, \$1.50; flour, \$1.50; sugar, \$1.50; coffee, \$1.50; tea, \$1.50; rice, \$1.50; oil, \$1.50; cotton, \$1.50; wool, \$1.50; hides, \$1.50; skins, \$1.50; tallow, \$1.50; lard, \$1.50; soap, \$1.50; candles, \$1.50; matches, \$1.50; salt, \$1.50; vinegar, \$1.50; molasses, \$1.50; honey, \$1.50; maple syrup, \$1.50; cornmeal, \$1.50; oatmeal, \$1.50; bran, \$1.50; shorts, \$1.50